



Time and Materials and Labor Hour Contracts

KEVIN COX, SFA CONTRACTS

- **Time and Materials contracts provide for acquiring supplies/services on the basis of:**
 - Direct Labor Hours at specified fixed hourly rates*
 - Materials at cost, including material handling costs if appropriate*
- **Labor-Hour contracts are a variation of the T&M contract that exclude materials supplied by the contractor**

Definitions and Applications

- **Time and Material (T&M) and Labor Hour (LH) contracts are used when it is not possible to estimate accurately the extent or duration of the work or to anticipate costs with any degree of confidence.**

Definitions and Applications

- **Limitations: T&M & LH contracts may be used:**

Only after the Contracting Officer executes a determination that no other contract type is suitable

Only if the contract includes a ceiling price that the contractor exceeds at their own risk. Changes in ceiling price will be documented by the Contracting Officer

Surveillance of T&M/LH Contracts

- **CAO shall perform surveillance:**

T&M/LH contract provides no positive profit incentive for cost control or labor efficiency

DCMA is to assure that the contractor is performing efficiently and using effective cost control measures

ACO shall, with appropriate functional elements, establish a surveillance plan immediately after award

Surveillance of T&M/LH Contracts

- **Plan shall include periodic audits of contractors billings and periodic "floor checks"**
- **ACO shall pay special attention to the withhold applicable to contractor's billings**
- **ACO shall review paid and/or rejected vouchers**
- **ACO is responsible for approving the final voucher**

- **FAR 52.232-7 requires, unless otherwise prescribed in the Contract Schedule:**

Withhold of 5% of Direct Labor Dollars

Withhold shall not exceed \$50,000 for the contract

Withhold may have to be taken against several orders at one time

Withhold shall be retained until the execution of the Contractor's Final Release

T&M/LH Withhold and Payments

- **For T&M/LH orders under Basic Ordering Agreements (BOAs), the \$50,000 maximum withhold applies to each BOA order, as each is an individual contract.**
- **For T&M/LH orders under Indefinite Delivery type contracts (IDTCs), the \$50,000 maximum withhold applies to aggregate of all active orders issued under the IDTC.**

- **ACOs should be aware that withholds which are spread across differing fund cites need to be carefully monitored to ensure equity among buying activities and to identify the aging of unliquidated funding.**
- **T&M/LH contracts are a form of a cost contract and therefore public vouchers are required for billings**

T&M/LH Withhold and Payments

- **Surveillance Plan should address review of Interim Vouchers for:**
 - Proper billings*
 - Proper withholdings*
 - Reasonable assurance that efficient & effective cost controls are being used*
- **Additional billings/payments guidance can be found in the ONE BOOK Chapter on Public Vouchers**

- **T&M/LH orders placed under a BOA are individual contracts.**

Withholding and release provisions apply per order.

- **T&M/LH orders placed under IDTCs are not stand-alone contracts and are used for control and tracking within the IDTC.**

For MOCAS purposes, each IDTC order is tracked separately.

Closeout of T&M/LH Contracts

- **IDTC T&M/LH orders require only one release, one aggregate withhold, and one final voucher for the contract.**
- **To facilitate the timely closing of individual IDTC orders, the withhold will be transferred to a active order.**
An IDTC order should not be closed if it would cause a lack of withholding.

Closeout of T&M/LH Contracts

- **The contractor should submit a “last” interim voucher for each delivery order indicating:**

This is the final billing for the delivery order

The withhold amount being transferred

The delivery order numbers the withhold is being transferred to

- **“CLOSEOUT” with the associated final voucher, release, audit and whatever other appropriate closeout actions are required should occur with completion of the final delivery order.**
- **“Final closeout” of the IDTC should reflect all prior actions in closing individual delivery orders.**

Summary & Recommendations

- **Establish and monitor surveillance plan**
- **Apply Withhold properly and fully document**
- **Manage the closeout actions for the respective type of T&M/LH contract**

Summary & Recommendations

- **T&M/LH contracts are a form of cost reimbursement contracts.**
- **Billings must be made on Public Vouchers.**
- **Administering T&M/LH contracts requires detailed knowledge of the ONE BOOK Chapter on Public Vouchers.**